

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Charee Stewart
2774 Cherokee Drive, Apartment 18
Waterford, MI 48328

(b) County of Residence of First Listed Plaintiff Oakland County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark Small, Esq.
656 W. Frank St.
Birmingham, MI 48009
(248) 376-3110

DEFENDANTS

Exeter Finance Corporation
222 Las Colinas Area Personal Transit #1800
Irving, TX 75039

County of Residence of First Listed Defendant Dallas County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

47 U.S.C. § 227

Brief description of cause:

Unlawful automated telephone calls

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ TBD

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/23/2015

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

CHAREE STEWART,)	Case No.:
)	
Plaintiff,)	
)	
vs.)	CIVIL COMPLAINT
)	JURY DEMAND
EXETER FINANCE CORPORATION)	
)	
Defendant.)	
_____)	

Plaintiff, CHAREE STEWART, (hereinafter "Plaintiff"), on behalf of herself, by and through her undersigned attorney, alleges against the Defendant, EXETER FINANCE, (hereinafter "Defendant") as follows:

PRELIMINARY STATEMENT

1. This is an action for damages arising from Defendant's violations of 47 U.S.C. § 227 *et seq.*, the Telephone Consumer Protection Act.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.
3. Venue is proper in this district under 28 U.S.C § 1391(b).

PARTIES

4. Plaintiff is a natural person, who at all relevant times has resided in the City of Waterford, Michigan, 48328.

5. Defendant is a corporation doing business in the State of Michigan, with its corporate address as 222 Las Colinas Area Personal Transit #1800, Irving, Texas 75039.

FACTUAL STATEMENT

6. Plaintiff and her husband, Douglas Stewart, were co-owners of a car being financed through Defendant.

7. In June 2014, Mr. Stewart filed for divorce and as part of the property settlement, Plaintiff and Mr. Stewart agreed that Mr. Stewart would receive the car being financed through Defendant, and have the sole responsibility for keeping up the payments on the car to be made to Defendant.

8. In late August 2014, Plaintiff started receiving calls from Defendant to collect after Mr. Stewart failed to make a timely payment on the car.

9. When Plaintiff would answer Defendant's phone calls, there would be a few seconds of silence before Plaintiff was connected to one of Defendant's representatives.

10. Plaintiff spoke with one of Defendant's representatives on August 28, 2014 after receiving numerous back to back calls during the course of that day.

11. Plaintiff informed Defendant's representative of the arrangement between her and Mr. Stewart and provided Defendant's representative with Mr. Stewart's work number.

12. Plaintiff then asked not to be called any further with respect to the account and to direct all future telephone calls to Mr. Stewart.

13. Plaintiff continued to receive telephone calls in the ensuing months whenever Mr. Stewart would be late with a payment on the car financed through Defendant.

14. In October 2014, Mr. Stewart also called Defendant and informed Defendant that he was solely responsible for the monthly payments for the car and not to contact Plaintiff.

15. On November 13, 2014, Plaintiff spoke with Defendant's representative "Willa" as she had been continuing to receive numerous telephone calls from Defendant.

16. Plaintiff informed Defendant's representative that she had finalized her divorce with Mr. Stewart and the agreement specified that only Mr. Stewart was responsible for the car payments, that only Mr. Stewart should be contacted and that Plaintiff's phone number should not continue to be called.

17. Defendant's representative informed Plaintiff that her telephone number would be removed.

18. Nonetheless, the telephone calls continued to Plaintiff, often up to 6 or 7 telephone calls per day, whenever Mr. Stewart failed to make required payments to Defendant.

19. Plaintiff continued to ask Defendant to cease calling her regarding the car payments on multiple occasions over the next several months, but the calls would continue whenever Mr. Stewart was not current with payments.

20. On May 27, 2015, Plaintiff spoke with Defendant's representative who promised to remove her phone number from the file after Plaintiff, again, asked the calls to cease.

21. On May 29, 2015, Plaintiff reiterated her request to a different representative who indicated she saw Plaintiff's request to be removed and that the matter would be fixed.

22. However, Plaintiff received two more telephone calls from Defendant that day and would continue to receive multiple telephone calls per day from Defendant in the days thereafter.

23. On June 5, 2015, a cease and desist letter was sent to Defendant, via certified-mail, once again asking for the calls to stop and informing Defendant that only Mr. Stewart is responsible for making the monthly payments on the car.
24. Defendant received the letter sent via certified mail on June 8, 2015.
25. Despite receipt of the cease and desist on June 8, 2015, Defendant called Plaintiff an additional forty-five times between June 9, 2015 and June 17, 2015.
26. All telephone calls from Defendant were made from the phone number 800-321-9637.
27. The phone number 800-321-9637 belongs to Defendant.
28. The telephone calls were made to Plaintiff's cell phone number 313-xxx-8714.
29. Defendant's telephone calls to Plaintiff were made through use of an automated telephone dialing system.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227

30. Plaintiff repeats the allegations contained in paragraphs 1 through 29 and incorporates them as if set forth at length herein.
31. All telephone calls to Plaintiff from Defendant were done utilizing an automated dialer.
32. Plaintiff revoked any consent Defendant may have had to call Plaintiff's cell phone number through issuing multiple cease and desist requests over a course of many months.
33. Defendant's actions constitute violations of 47 U.S.C. § 227(b)(1)(A)(iii) to which there falls no exemption to their behavior.

JURY TRIAL DEMAND

34. Plaintiff demands a jury trial on all issues so triable.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against the Defendant, and on behalf of the Plaintiff, for the following:


- a. That an order be entered declaring the Defendant's actions, as described above, in violation of the TCPA;
- b. That judgment be entered in favor of Plaintiff against Defendant for violations of 47 U.S.C. § 227b(1)(A)(iii);
- c. That the Court award treble damages to Plaintiff for each violation of the TCPA the Court deems willful;
- d. That the Court grant such other and further relief as may be just and proper.

[THIS SPACE INTENTIONALLY LEFT BLANK]

Verification

I declare that the above statements are true to the best of my information, knowledge and belief.

Dated: July 23, 2015


Charee Stewart
Plaintiff

Dated: July 23, 2015:

Respectfully Submitted,


Mark Small, Esq.
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